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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,348	02/17/2006	Marinus Lambertus Wilhelmus Van De Sande	54950/A394	8999
23363 7590 10/30/2007 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			EXAMINER LOW, LINDSAY M	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 10/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,348

Applicant(s)VAN DE SANDE, MARINUS
LAMBERTUS WILHELM**Examiner**

Lindsay M. Low

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's RCE received on October 18th, 2007.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal in view of Admitted Prior Art for the same reasons set forth in paragraph 4 of the Final Rejection mailed June 16th, 2007.

Regarding the amendment to claim 1, it should be noted that the band clamping and guiding means (Figs. 2-8) are jaws having clamping faces 17, 18, 20, 21 and are therefore clamping jaws. In addition, as stated in col. 3 lines 31-38, spot welding electrodes can be placed on the jaws for attaching the band ends together. Therefore, they are also welding jaws.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal in view of Odenthal for the same reasons set forth in paragraph 5 of the Final Rejection, *supra*.
5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal in view of Odenthal for the same reasons set forth in paragraph 6 of the Final Rejection, *supra*.

Response to Arguments

6. Applicant's arguments filed October 18th, 2007 have been fully considered but they are not persuasive.

Applicant contends that Van der Wal's bands relate to metal tapes and non-fusible tapes and not to bands of the strap type or the film type. However, it should be noted that claims are given their broadest reasonable interpretation consistent with the specification. The term "strap" as defined by the Webster II New Riverside University Dictionary on page 1145 is "a long narrow strip of pliant material" and "a flat thin metal or plastic band used for clamping objects together." In this instance, the pliant tapes used in Van der Wal's device are considered straps. Regarding the term "film," Van der Wal discloses being able to use material that is metal, another fusible material, or a non-fusible material. In other words, Van der Wal states that a variety of different tapes can be used in the device. Note that film can be a fusible material. Therefore, Van der Wal's device includes and is capable of applying a fusible tape of the film type.

Applicant contends that Van der Wal doesn't disclose having a single machine utilizing both strap and film materials. However, as previously stated in the Final Rejection, *supra*, claim 1 merely states what types of bands are used with the machine. Although it is noted that the amended claim now requires a band and clamping means having welding and clamping jaws for each band type, the claim still does not encompass the combination of the film and strap bands in the device. It only encompasses a device that uses different jaws with the different bands. Furthermore, the claim is not restricted to a device that simultaneously uses the different jaws with the

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different types of bands. Finally, Van der Wal's device includes and is capable of applying two different kinds of bands at the same time or combination thereof.

Applicant contends that Odenthal's bands are of different widths, but are made from the same packaging material. However, it should be noted that Odenthal is relied upon to show the use of applying two different widths of bands at the same time around a package. It is acknowledged that the band clamping means of Odenthal operates differently and from that of Van der Wal; however, both band and clamping means require wrapping a package with more than one band. It would be within the abilities of one having ordinary skill in the art to recognize that using two bands of different widths would aid in providing more support to Van der Wal's package.

For the reasons above, the grounds of rejection are deemed proper.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Low whose telephone number is 571-272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LML
10/26/2007



Rinaldi I. Rada
Supervisory Patent Examiner
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